

Office of Financial Management



2005

RISK-BASED AUDITS OF PERSONAL AND CLIENT SERVICE CONTRACTING

Prepared By



8201 164th Avenue NE, Suite 300
Redmond, WA 98052
tel: (425) 867-1802
fax: (425) 867-1937
www.fcsgroup.com

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8201 164th Ave NE, Suite 300 T: 425.867.1802
Redmond, Washington 98052 F: 425.867.1937

50 California St, Suite 1500 T: 415.227.5905
San Francisco, California 94111 F: 415.439.5299



March 15, 2006

Ms. Laura Nelson
Office of Financial Management
210 11th Ave SW Rm. 311
Olympia, Washington 98504

Subject: Risk-Based Audit of Personal And Client Service Contracting

Dear Ms. Nelson:

We are pleased to submit our final report summarizing the results of our audit and review of the personal and client service contracting procedures for the Employment Security Department, Department of Services for the Blind, and Washington State Patrol. We have provided eight bound copies, an unbound copy, and an electronic copy of the report. As part of our process, we met with the agency staff to review our preliminary observations and to discuss any outstanding issues. The departments have reviewed the draft and have provided their written comments on the recommendations. The comments have been included as part of the recommendations section for each department.

As noted in the report, we appreciated the assistance and cooperation that we received from the staff at each department as well as your guidance and assistance during the study. If there are any questions, please do not hesitate to contact us (425) 867-1802 ext. 228.

Very truly yours,

Peter Moy
Principal

Enclosures

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I. INTRODUCTION

Based upon concern about certain state agency contracting practices, the 2000 Washington State Legislature directed the Office of Financial Management (OFM) to conduct risk-based audits that were recommended by the Task Force on Agency Vendor Contracting Practices. RCW 39.29.120 states the following:

“The Office of Financial Management shall conduct risk-based audits of the contracting practices associated with individual personal service and client service contracts from multiple state agencies to ensure compliance with the guidelines established in RCW 39.29.110t. The Office of Financial Management shall conduct the number of audits deemed appropriate by the director of the Office of Financial Management based on funding received. The Office of Financial Management shall forward the results of the audits conducted under this section to the governor, the appropriate standing committees of the legislature, and the joint legislative audit and review committee.”

OFM has conducted risk-based audits for the past four years and has generally concentrated on the larger state agencies. For this risk-based audit, OFM selected the Department of Services for the Blind (DSB), the Employment Security Department (ESD), and the Washington State Patrol (WSP). Follow-up on actions taken by departments previously audited included the Department of Social and Health Services, Department of Health, Department of Community, Trade, & Economic Development, Department of Corrections, and Employment Security Department.

OFM contracted with the FCS Group to conduct the audits and to perform research and provide training on performance based contracts. A separate report was prepared for the research on performance based contracting. According to OFM, the objective of these risk-based audits is to help departments improve their contracting processes and procedures and to assure compliance with the Guide to Personal Service Contracting and the Guide to Client Service Contracting (the Guidelines) established by OFM. To foster department cooperation and collaboration, the scope of work for the audits included an initial kick-off meeting, a meeting on preliminary observations and recommendations, and a formal exit conference with each department's upper level management.

OFM selected 15 contracts from each department to be audited. The selected contracts for DSB and ESD consisted of both personal service and client service contracts, while all contracts for WSP were personal service contracts. To guide the audit, OFM also selected specific sections of the Personal Service and Client Service Guidelines to audit.

Audit Methodology

The risk-based audits are designed to determine whether departments have complied with the Personal Service and Client Service Guidelines and to make recommendations to improve each department's contracting processes. The following methodology was used to conduct the audit of the contracts.

- An audit guide was developed based on the sections from the Personal Service and Client Service Guidelines that were selected by OFM. The detailed summaries for each department represent the audit guide and are included in the appendices. The audit guide addresses the different types of procurement guidelines for sole source, informal competitive, and formal competitive processes that are included in the Guidelines. The audit guide consisted of a description of each guideline section to be audited, key questions and information concerning the guideline, and whether the department's documentation met the guideline, partially met the guideline, did not meet the guideline, or was not required.
- To assess a department's compliance with the guidelines, the following criteria were used.
 - To meet a guideline section, the contract files had specific documentation showing that the guideline was followed,
 - To partially meet the guideline section, only some parts of the guideline were followed and documented; or the contracting officer or the program manager could only explain how the guideline was met, but had no documentation showing that the staff actually met the guideline,
 - Did not meet the guideline section means that there was no documentation and the contracting officer or the program manager did not take steps to meet the guideline, and
 - Not required means that the department did not have to follow the guideline section because it was exempt, was a suggestion, or was optional.
- The contract auditing at each department involved working with the department's contract staff, interviewing each contract's contracting officer or program manager, reviewing both the formal and informal procurement and contract files and any other contract files belonging to the contracting officer or program manager, and reviewing related financial records.
- After completing the audit of each department's contracts, an informal exit conference was conducted to review the preliminary findings with each department's contracting staff. A formal exit conference was also held with a member of each department's upper management.

Summary of Issues

Although each of the three departments had findings that were specific only to them, the three departments also shared some strengths as well as common issues in implementing OFM's Guidelines for personal and client services contracting. Guidelines where two or more departments had a high compliance rate included the following:

- Budgets and funding were verified,
- Scopes of work were well written and reporting requirements were clearly identified,
- Competitive contracting practices followed most of the guidelines,

- Performance measures and outputs were often used, and
- There was adequate payment documentation.

Some of the common problems and issues for the three departments included the following:

- There was often a lack of documentation that supported either compliance with the guidelines or decisions and actions taken by the contracting officer or program manager. This affected compliance with a number of different guideline sections throughout the contracting process,
- Formal risk assessments were not performed. Departments often contract with the same organizations and client service providers year after year and believe that they are already familiar with their operations and organizations,
- A number of contract officers and program managers have not received the required OFM contracts training,
- The contractor's status as either a sub-recipient or vendor was not clearly documented for federally funded contracts,
- Screening for current or former state employees is often not done, and

The following chapters present the audit results for each department. Each chapter contains a summary of findings and issues, a more detailed list of the key findings organized by the contracting phases used in the guidelines, and recommendations. The completed audit guide for each department is provided as an appendix.

II. DEPARTMENT OF SERVICES FOR THE BLIND

Introduction

The Department of Services for the Blind (DSB) supports individuals who are blind and visually impaired. DSB delivers its services through two major program areas: Employment Services and Alternative Skills of Blindness Services. Employment Services helps individuals with visual disabilities to gain the necessary skills and access opportunities to reach the employment goal of their choice. Employment Services programs include Vocational Rehabilitation, Assistive Technology, and Business Enterprise programs. Alternative Skills of Blindness Services helps individuals and families to live independently and achieve full educational, social, and vocational integration in their school and community. Alternative Skills of Blindness Services programs include the Orientation and Training Center, Independent Living, and Child and Family Services programs. DSB's fiscal year 2006 budget is approximately \$10.4 million with federal funding representing about 73% of the total budget.

Contract administration at DSB is primarily the responsibility of program managers with support from other program and fiscal staff. Program staff direct the procurement process, negotiate contract terms and manage contracts. Fiscal staff provide support related to funding availability, procurement, general contract terms, general contract administration, and payment processing.

Fifteen DSB contracts were reviewed during the audit and included two personal service contracts and thirteen client service contracts.

Personal Service Contracts

- Burt Sarver (DSB facility lease negotiation support)
- Vital Smarts (employee training)

Client Service Contracts

- Eight regional service provider contracts (Independent Living program)
- Participant computer/technology training contract (Business Enterprise program)
- Restaurant operation and menu consulting (Business Enterprise program)
- Participant training contract (Vocational Rehabilitation program)
- Independent living and vocational services contract (Vocational Rehabilitation program)
- Summer youth employment services contract (Child & Family Services program)

The auditors appreciated the support and professionalism of all DSB staff during the audit, with specific acknowledgement of Erin Larson, Assistant Director, and Alice Shedd, Financial Analyst.

Summary of Issues

Audit results generally showed that DSB contracts had a high level of compliance with OFM Guidelines. Areas of strength included the following:

- Independent Living program contract documents were well constructed and clearly defined contractor and agency responsibilities.
- Contract statements of work and contractor reporting requirements were clearly written and provided DSB with the ability to effectively monitor contractor performance.
- Contract payment terms linked DSB payment to some level of contractor output or performance, which provided incentives for the contractor to meet DSB program objectives.
- Contract payment documentation was complete for virtually all contract payments.
- The monitoring of Independent Living program contracts was timely and thorough.
- Client surveys – an effective monitoring tool – were used to help monitor contractor performance on almost all client service contracts.

Areas identified with partial compliance represent opportunities for DSB to strengthen its contracting process. These areas include the following:

- The contractor selection process and the rationale for using a sole source contract were not always documented.
- Standard contract terms were not always included in the contracts. Examples include retention and access to contractor records and a provision regarding a ten day waiting period for contracts requiring OFM filing.
- Documentation of contract monitoring activities was not always complete.
- Required background checks on contractors or contractor employees were not always completed. Completing background checks and effectively responding to any issues they identify is an important element in managing contract risk.
- The availability of funding to support contract amounts was not formally verified. However, the majority of the contracts involved contract renewals that were funded in the prior year and where the department's current budget anticipated funding these renewals.

Areas that were out of compliance can be addressed with relatively minor improvements to DSB's contracting procedures. These areas include the following:

- One contract addendum was signed by a DSB staff person who had not received appropriate OFM contract management training.
- DSB did not screen for contractors who are former State employees.
- Contracts with federal funding did not clearly state whether the contractor should be considered a sub-recipient or vendor.

- Several elements related to the management of the Youth Employment Services contract were found to be out of compliance with the Guidelines.

Detailed Audit Results

Detailed information on the results of the DSB contract audit are provided by the contracting categories used in the Guidelines. The specific details and additional information in the audit guide for DSB can be found in Appendix A. Based on our review of the contracts, the audit revealed the following.

Training on Personal/Client Service Contracts

- One personal services contract amendment **did not meet** the mandatory guideline that employees who execute and manage personal service contracts receive OFM sponsored contract training.
- All thirteen of the client services contracts, including amendments, **met** the mandatory guideline that employees who execute and manage client service contracts receive OFM sponsored contract training.

Pre-Contract Planning

Funding Availability

- Both of the personal service contracts **partially met** the guideline of verifying the funding available for the contract prior to entering into the contract. Funding availability was not formally verified but other documentation indicated funding was available.
- All thirteen of the client services contracts, including amendments, **partially met** the guideline of verifying the funding available for the contract prior to entering into the contract. Funding availability was not formally verified because each of the thirteen contracts was funded in the prior year and the current year budget included funds to continue the contracts.

Audit Requirements: Determination of Sub-recipient or Vendor Status (contracts with Federal funding only)

- All fifteen contracts, including amendments, **did not meet** the guideline of having a clear determination of the contractor as a sub-recipient or vendor.

Method of Compensation

- This guideline was **met** for the personal service contracts. Those contracts included compensation on a time and materials basis.
- Twelve of the thirteen client services contracts **met** the guideline of identifying the most effective compensation method.
- The method of compensation identified in one client services contract **did not meet** the guideline of identifying the most effective compensation method. Contract language in one section provided for prepayment of services, while other language in the contract prohibited prepayment.

OFM Filing Requirements

These guidelines apply only to the two personal service contracts in our sample. Client service contracts are not required to conduct competitive procurements or to be filed with OFM.

Exemptions from Competition and Filing Requirements

- One personal service contract **was exempt** from the guideline requiring filing the initial contract with OFM. The contract amount was below the \$5,000 minimum required for filing.
- Both personal service contracts **met** the guideline related to competition.
 - One contract (under \$5,000) was below the threshold requiring competition.
 - One contract (Under \$20,000) used a sole source procurement as allowed in the guidelines and as approved by OFM

Filing Periods

- One personal service contract **partially met** the guideline of filing the initial contract with OFM. The contract was filed in a timely manner but the contract document did not include language stating that the contract start date was subject to a ten day waiting period to allow for OFM review. The other personal service contract was exempt from filing based on the initial contract amount.

Filing of Contract Amendments

- One personal service contract **partially met** the guideline of filing contract amendments with OFM. The contract amendment was filed in a timely manner but did not include language stating that the contract start date was subject to a ten day waiting period to allow for OFM review. The other personal service contract did not have any amendments.

Advertising a Sole Source Personal Service Contract

- Both personal service contracts were **exempt** from the guideline related advertising a sole source personal service contract since their contract amounts were under \$20,000.

Sole Source Filing Justification

- Both personal service contracts **met** the guideline stating that contracts subject to filing include a comprehensive explanation of the circumstances surrounding the sole source award decision.

Contract Amendments Cumulatively Exceeding 50 Percent of the Original Contract Value and/or That Substantially Change the Scope of Work of the Original Contract

- One personal service contract **partially met** the guideline of filing contract amendments that exceed 50 percent of the original contract value with OFM. The contract amendment was filed in a timely manner but did not include language stating that the contract start date was subject to a ten day waiting period to allow for OFM review. The other personal service contract did not have any amendments.

Contractor Selection

Contracting with Current or Former State Employees

- The contractor selection process for all fifteen contracts **did not meet** the guideline of screening for current and former State employees in order to ensure compliance with RCW 42.52. One contract had evidence that the DSB contract manager was also serving as the contractor's representative.

Preparing for the Solicitation Process - Client Services

- The selection process for all thirteen client service contracts **partially met** the guideline for the solicitation process. Each of the thirteen contracts used a sole source process as allowed under the Guidelines. A competitive procurement for client services contracts is encouraged but not required under RCW 39.29. In addition, the Guidelines suggest that on-going contracts should be reviewed every four years to re-assess the need for competition and the contractor's performance. The term of the DSB contracts was limited to one year. However, most of the contracts were annual renewals and the contractors had been providing services to DSB under annual contracts for several years.
- DSB fiscal policies provide guidance on the contract solicitation process and reference the OFM contract guidelines. However, the DSB policies do not reflect the most recent update of the OFM Guidelines.

Competitive Procurement

- This guideline was **not applicable** as all fifteen contractors were selected using a sole source process. Competitive procurement for client service contracts is encouraged but not required under RCW 39.29.

Non-Competitive and Sole Source Procurement - Client Services

- Eleven of the thirteen client services contracts **partially met** the guideline of documenting the reasons for sole source awards. Interviews with contract managers provided verbal reasons, but there was no documentation.

Contractor Qualifications

Financial Stability

- Guidelines suggest that prior to selection of a contractor the contract manager may want to give consideration to the contractor's financial stability. The selection process for two of the thirteen client service contracts did screen for contractor financial stability. In one case there was financial information in the contract file and in another there was a formal financial review completed in 2002.

Previous Contractual Performance

- The contractor selection process for one of the thirteen client services contracts **did not meet** the guideline for screening for previous contractual performance. All of the contracts were renewals of contracts that had been in place for several years and in all

but one of those contracts, DSB reviewed the contractor's performance in the prior year.

Minimum/Necessary Qualifications

- The contractor selection process for twelve of the thirteen client services contracts **partially met** the guideline of meeting minimum/necessary qualifications. One contract **did not meet** the guideline. All of the contracts were annual renewals and the contractors had been providing services to DSB under annual contracts for several years. In all but one of those contracts, DSB reviewed the contractor's performance, including their key qualifications, during the prior year.
- DSB is required to perform criminal background checks on persons that may have unsupervised access to participants (WAC 67-16-030). However, DSB does not have procedures in place to ensure that background checks are completed on all such persons or that issues raised in the background check process are adequately addressed by contractors.

Contract Provisions

Scope of Work

- Contract provisions in both of the personal service contracts **met** the guideline of providing an accurate, thorough, and measurable description of the essential requirements for the services to be provided.
- Contract provisions in one of the thirteen client service contracts **did not meet** the guideline of providing an accurate, thorough, and measurable description of the essential requirements for the services to be provided.

Compensation and Payment – Personal Services

- Contract provisions in both of the personal service contracts **met** the guideline of providing an accurate, thorough, and measurable description of all elements related to cost and payment.

Amending Contracts – Client Services

- Two client service contracts had amendments and both **met** the guideline of having amendments that clearly identify the reason/purpose for the amendment and were completed before the end of the original contract.

Performance Measures and Outcomes

- Although not a required element, contract provisions in ten of the thirteen client service contracts **met** the guideline of using performance measures to provide a standard or measure of performance of the contracted services.

Performance Based Contracts

- Performance-based contracting is encouraged for both personal service and client service contracts, but is not required. We considered a contract to be “performance-based” if it described what the contractor was expected to accomplish (and not how to do the work) and tied payment directly to outcomes or deliverables. Several of the

contracts tied contractor payment to the number and/or type of participants served or the type of services provided.

Fiscal Reporting

- Contract provisions in both of the personal service contracts ***partially met*** the personal service contract guideline to report and allow access to financial information. The contracts required certain financial information to be reported to DSB but they did not provide DSB access to contractor records.
- Contract provisions in one of the thirteen client service contracts ***did not meet*** the guideline of clearly identifying the methods of compensation and billing.

Payment Documentation

- Contract provisions in both of the personal service contracts ***met*** the personal service contract guideline regarding the information and documentation required to justify payment.
- Contract provisions in one of the thirteen client service contracts ***did not meet*** the guideline of defining the information and documentation required to justify payment.

Contract Monitoring

Risk Assessment Approach to Contract Management

- Both personal service contracts ***did not meet*** the guideline of completing a risk assessment to evaluate the exposure to harm or loss that could arise from an activity associated with the client service contract.
- One client service contract ***did not meet*** the guideline of completing a risk assessment to evaluate the exposure to harm or loss that could arise from an activity associated with the client service contract.
- Twelve client service contracts ***partially met*** the guideline of completing a risk assessment to evaluate the exposure to harm or loss that could arise from an activity associated with the client service contract. All twelve contracts were renewals and DSB reviewed the contractor's performance in the prior year which is considered a form of risk assessment.

Monitoring Plan

- Both personal service contracts ***partially met*** the guideline of defining the specific monitoring methods appropriate to a particular program or service, and the monitoring activities to be completed. While neither contract had a formal monitoring plan the contractor reporting requirements identified in the contract and the monitoring performed by DSB was considered to partially meet the guideline.
- One client service contract ***did not meet*** the guideline of defining the specific monitoring methods appropriate to a particular program or service, and the monitoring activities to be completed.
- Twelve client service contract ***partially met*** the guideline of defining the specific monitoring methods appropriate to a particular program or service, and the monitoring activities to be completed. While none of the twelve contracts had formal

monitoring plans the contractor reporting requirements identified in the contract and the monitoring performed by DSB was considered to partially meet the guideline.

Monitoring Activities

- Contract monitoring activities for one client services contract **did not meet** the guideline of collecting information about contractor operations and reviewing the appropriateness of contractor performance and payments. Payments were processed without the initials of the DSB contract manager, and financial record retention and access were not identified in the contract.
- Twelve client service contract **met** the guideline of collecting information about contractor operations. The number of contracts and the specific monitoring activities included:
 - Periodic contractor reporting: 13
 - Agency review of audit reports: 1
 - Invoice reviews: 13
 - On-site reviews and observations: 13
 - Other periodic contact with contractor: 13
 - Client surveys: 10.

Reviewing Invoices for Payment

- Contract monitoring activities for one personal service contract **did not meet** the guideline regarding reviewing invoices for payment. The total amount paid under the contract exceeded the amount specified in the contract by approximately \$1,000. The additional amounts resulted from additional materials, additional shipping costs and unanticipated sales taxes.

Recommendations

The following recommendations directly respond to the observations for each audit area and guideline. In many instances, the recommendations involve developing procedures and checklists to provide assurance that the procedures are being followed.

Required Contract Training

1. Require all employees who execute and manage personal services contracts to receive the appropriate OFM contract training.

Department Response: DSB requires all employees managing personal services contracts to receive training. All employees now have the appropriate OFM training. Management training guidelines will be updated to include personal and purchased contracts training for new employees and recurring refresher training as required. Training guidelines will be updated by June 30, 2006.

Pre-Contract Planning

2. Review and document that funding availability has been verified prior to entering into any contract. Such documentation could be included as part of comprehensive contract planning procedures and/or a pre-contract planning checklist.

3. Provide a clear determination in the contract document regarding the status of the contractor as a sub-recipient or vendor for contracts with federal funding. DSB should revise its standard contract templates to make sure this contract provision and other required language is included where appropriate.

Department Response: Pre-Contract checklists will be developed to include verification of funding. Checklists will be based on GA Guide to Contract Risk and available for use by June 15, 2006. Contract templates will be revised to include required language for contractor federal funding issues by June 30, 2006.

OFM Filing Requirements

4. Include language in contracts and contract amendments subject to filing with OFM stating that contract start date was subject to a ten day waiting period to allow for OFM review. DSB should revise its standard contract templates to make sure this contract provision and other required language is included where appropriate.

Department Response: Contract templates will be revised to include required language stating that contract start date is subject to a ten day waiting period by June 30, 2006.

Contractor Selection

5. Require contractors to identify current and former State employees in order to ensure compliance with RCW 42.52. One option is to include a contractor disclosure statement regarding former state employees near the signature block in the contract.
6. If the contractor has provided service to DSB under a similar contract for four consecutive years, prior to entering into another contract DSB should formally assess the need for competition and review the contractor's performance and qualifications. Such an assessment should be included as part of more comprehensive contract planning procedures and/or a contractor selection process checklist.
7. Update DSB fiscal policies to reflect the most recent update of the OFM Personal Service and Client Service Guidelines.
8. Document the justification for sole source awards prior to awarding all sole source contracts. Such documentation could be included as part of more comprehensive contract planning procedures and/or a contractor selection checklist.
9. Require contractors who enter into contracts that exceed a certain dollar threshold to submit financial statements and assess the financial stability of each contractor. Such documentation could be included as part of more comprehensive contract planning procedures and/or a contractor selection checklist.
10. Conduct periodic reviews of contractor's performance and document the results of such a performance review in the contract file.
11. Put in place procedures to ensure that criminal background checks are completed on all persons that may have unsupervised access to clients and that the results of the background check are adequately addressed by contractors.

Department Response: Contract policy, procedures, forms and checklists will be updated or developed to ensure recommendations 5-11 are addressed by July 31, 2006.

Contract Provisions

12. Require that the statements of work in each contract provide an accurate, thorough, and measurable description of the essential requirements for the services to be provided. This requirement could be met by having contract statements of work reviewed by DSB fiscal staff prior to signing.
13. As applicable, put in place contract provisions that require the contractor to provide DSB access to contractor financial information and records and that require the contractor to retain financial information and other records in compliance with State requirements. DSB should revise its standard contract templates to make sure these contract provisions and other required language are included where appropriate.
14. Clearly identify the methods of compensation and billing in all contracts. This requirement could be met by having the contract provisions related to the method of compensation reviewed by DSB fiscal staff prior to signing.
15. Clearly define the information and documentation required to justify payment in all contracts. This requirement could be met by having the contract provisions related to payment documentation reviewed by DSB fiscal staff prior to signing.

Department Response: Contract templates will be revised to include required language to address recommendations 12-15 where appropriate. Contract policy, procedures, forms and checklists will be updated or developed to ensure recommendations 12-15 are addressed by July 31, 2006.

Contract Monitoring

16. Develop contract monitoring procedures that do the following:
 - Identify when a formal risk assessment is required to evaluate the exposure to harm or loss that could arise from an activity associated with the client service contract. OFM has provided examples of risk assessment forms and processes in the Guidelines document,
 - Identify when a formal monitoring plan is required and the general form of such monitoring plan. OFM has provided examples of monitoring forms and processes in the Guidelines document,
 - Assure that information about contractor operations and the appropriateness of contractor performance and payments are reviewed for all contracts, and
 - Assure that the total amount paid under a contract does not exceed the amount specified in the contract including procedures to identify the amount of sales taxes that may apply.

Department Response: Formal risk assessment guidelines are currently being developed. All contract policy, procedures, forms, and checklists will be updated or developed to ensure recommendation 16 is addressed by July 31, 2006.

III. EMPLOYMENT SECURITY DEPARTMENT

Introduction

The Washington State Employment Security Department (ESD) serves unemployed and dislocated workers by providing unemployment benefits, on-the-job training, retraining, and job search assistance. The agency also supports employers by screening, testing, and interviewing candidates. ESD is also one of four key partners in the State's WorkFirst welfare-to-work program. Services are offered statewide through WorkSource Centers. ESD's budget for 2005-2007 is \$530.4 million.

ESD's contracting activities are de-centralized. Program staff may initiate procurement as soon as they identify the need for professional services. Program staff serve as both procurement managers and contract managers. In many cases, contract managers are the project leads directly responsible for overseeing the work performed by the contractor. This helps to ensure that program staff are intimately involved in the development, execution, and monitoring of a contract.

A central Contracts Office provides support for contracting activities in a variety of ways. Prospective procurements are routed through the Contracts Office for review, tracking, and assistance as needed. The Contracts Office coordinates larger competitive procurements and serves as the liaison between the agency and OFM. In addition, ESD is authorized to provide contract manager and signer training in accordance with OFM Guidelines. The Contracts Office has developed an approved curriculum, and trains staff as needed.

Contracting practices and procedures are mature. The agency uses contract tracking tools (the Contract Clearance Sheet) and has developed a set of forms, standard contract templates containing Terms and Conditions suitable to different contracts and funding streams, and review procedures to help ensure that vendors are procured and contracts are developed and executed according to OFM guidelines. The Contracts Offices makes all forms, contract templates, and tools available on ESD's intranet site, enabling program staff to find appropriate materials.

Fifteen ESD contracts were reviewed during this audit and included seven personal service contracts and eight client service contracts.

Personal Service Contracts

- Northwest Regional Education Laboratory (Pre-Service Orientation Workshops)
- RKM Research & Communications (Telephone Surveys for WorkSource)
- Daniels Consulting (GUIDE Business Analyst)
- Brewer Consulting Services LLC (IVR Fraud Detection Project Manager)
- SG Marketing Group (Mystery Shopper)
- Brewer Consulting Services LLC (GUIDE Business Analyst)
- Treinan Associates (IVR Replacement Project Manager)

Client Service Contracts

- Goodwill of the Inland NW (Ex-Offender Program)
- Health Improvement Partnership (Certified Benefits Specialist)
- Seattle-King County Workforce Development Council (Apprenticeship Training)
- Snohomish CL Workforce Development Council (Apprenticeship Training)
- Northwest Workforce Development Council (Paraprofessional Support)
- ACT, Inc. (Work Keys Assessments)
- Opportunity Council of Whatcom County (Money Management Classes)
- Tacoma Goodwill Industries (Services to Ex-Offenders)

ESD used a variety of procurement methods for the contracts reviewed. Five of the personal service contracts were competitively procured, and two were sole source. Four of the client service contracts were competitively procured, while four were sole source.

Our sample of client service contracts included five contracts with unique circumstances caused partly by their funding sources.

- Three contracts with Workforce Development Councils functioned as grants to these organizations. Under the Workforce Investment Act, funds may only go to these organizations. Requests for Proposals were sent to 12 Councils, and selected Councils received a grant to fund proposed projects and activities. We evaluated these “grants” as competitively procured contracts, but also noted where OFM Guidelines might not apply to these organizations.
- Two contracts (ACT, Inc. and Opportunity Council of Whatcom County) were developed as a result of the Workforce Enhancements RFP issued 10/7/2004. This RFP was directed to local WorkSource or Employment Security Administrators. Local offices proposed programs or services and identified key partners. By selecting a local office’s proposed approach, ESD was committed to develop a sole source contract with the identified partners. We noted several instances where the Guidelines might be applied differently to these contracts.

The auditors appreciated the assistance received from ESD program managers and staff that were responsible for the sample contracts. We would especially like to thank Larry Oline, Contracts and Rules Administrator, for his availability and support during the audit.

Summary of Issues

The audit found that the selected ESD contracts had a high level of compliance with OFM Guidelines. Areas of strength included the following:

- A reliable process was in place to ensure that funding was verified and that appropriate budget codes were assigned. The Fiscal and Budget Offices reviewed each contract, as noted on the Contract Clearance Sheet.
- Competitive procurements adhered to OFM filing guidelines.
- Contract Scopes of Work were comprehensive and well-written.

- Several client service contracts provided excellent examples of performance-based contracting and use of performance measures to monitor, manage and pay for services.
- Appropriate monitoring methods were chosen for contracts.
- Competitive contracting practices for personal services were well-developed. These contracts made effective use of evaluation criteria.

Areas identified with partial compliance represent opportunities for ESD to strengthen its contracting process. These areas include the following:

- The status of federal contracts (sub-recipient or vendor) was not clearly documented. While all federal contracts contained required language that proscribed special management and audit requirements for a sub-recipient, an auditor (or contractor) might have difficulty knowing if the requirement really applied to that contract.
- Although client services program managers could explain reasons for sole-source procurements, written documentation for these decisions was missing from contract files.
- Billing documentation was incomplete in a few cases. We found examples where invoices were missing from the program/contract files, where approvals to pay had a required signature but not a date, or where supporting information was not attached to or included with an invoice.
- Although competitive contracting practices followed most of the Guidelines, there is a need for more consistent documentation in the procurement files. For example, some files were missing one or two of the following items:
 - Documentation about reference checks (dates, person contacted, results)
 - Copies of an evaluation matrix and scoring summary
 - Identification of the evaluation team members by name
 - Conflict of Interest and Confidentiality Statements from evaluation team
 - Copies of all submitted proposals, with date and time received
- Any screening or consideration of contractor qualifications that was performed during sole source procurements was not documented.
- Reviews of financial stability for client services contracts were not performed in two cases. Even though these contractors were selected as required partners in local ESD workforce enhancement projects, we believe that some sort of financial review could be used by ESD to mitigate potential risk.

Areas that were out of compliance provide ESD with opportunities for improving ESD's contracting procedures. These areas include the following:

- Risk assessment, while performed informally by some managers, is still not a routine part of the contracting "culture" at ESD. No formal risk assessment tools are used, and risk assessments are not documented. The agency is working to develop a simplified risk assessment instrument.
- One contract manager was not trained as required by the Guidelines. Two contract managers and a contract signer were trained by ESD under special authorization for the agency to provide this training. Training was apparently not reported to or recorded by OFM because OFM had no record in the Training Database for these three staff members.

- In seven contracts no screening occurred to identify current or former state employees. Current ESD practice for non-competitive and client service contracts seems to require documentation in the file only if a current or former state employee is discovered.
- Two of three client services contract amendments/modifications were not signed before the original contract expired. In one case the time between the amendment start date and contract signing date was significant at 28 days.

Detailed Audit Results

Detailed information on the results of the ESD contract audit is provided by the contracting categories used in the Guidelines. The specific details and additional information in the audit guide for ESD can be found in Appendix B. In several cases, the Guidelines apply only to client service or personal service contracts. Based on our review of the contracts, the audit revealed the following.

Training on Personal/Client Service Contracts

- Twelve of the fifteen contracts **met** the mandatory guideline that employees who execute and manage client service contracts receive OFM sponsored contract training.
- Three personal service contracts **partially met** the mandatory guideline. Three contract managers and one contract signer received ESD training but training completion was either not reported to OFM as required or was not recorded by OFM.
- One personal service contract **did not meet** guidelines because no training records were found for the contract manager.

Pre-Contract Planning

Funding Availability

- All fifteen of the contracts **met** the guideline that funding must be available and verified prior to entering into the contract. ESD procedures ensure that contracts are routed to both the Fiscal and Budget Offices for review and funding verification prior to contract signature. These review points are documented on the Contract Clearance Sheet.

Audit Requirements: Determination of Sub-recipient or Vendor Status (contracts with Federal funding)

- This guideline was **not applicable** to seven personal service contracts and two client service contracts because they were not federally-funded.
- Six federally-funded client service contracts **partially met** the guidelines. The Guidelines specify that the contract should be clearly written to support the determination of the sub-recipient or vendor status, since administrative, management and audit requirements differ significantly for sub-recipients. The status was not identified in any of the federal contracts or on the Contract Clearance Sheets. Contract Terms and Conditions contained language describing the special management and audit requirements for the sub-recipient status. This language was found in both sub-recipient and vendor contracts. Program managers we interviewed

were not familiar with the subtle distinctions between these two types of contracts, and they relied on the Contract Office to make a correct determination.

Method of Compensation – Client Service

- The guideline requires that contracts identify and clearly document an appropriate method that will be used to pay the contractor for delivery of services. All eight of the client service contracts *met* the guideline. Two contracts were performance-based, two were fixed price/unit-based, one was a cost-reimbursement contract, and three contracts were grants.

OFM Filing Requirements

These guidelines apply only to the seven personal service contracts in our sample. Client service contracts are not required to conduct competitive procurements or to be filed with OFM.

Exemptions from Competition and Filing Requirements

- All seven of the Personal Service contracts reviewed were required to be filed with OFM.

Filing of Initial Contract

- Personal service contracts are required to include specific language that prohibits commencement of work or payment for work until 10 working days following the OFM filing date. Each of the seven personal service contracts included the specific contract language and *met* this requirement.
- Five of the contracts were competitive contracts for \$20,000 subject to the 10 day filing requirement. For these, the OFM filing date must be 10 working days before the start date. All five competitive contracts *met* this requirement.
- Two of the contracts were sole source contracts for \$5,000-\$19,999. Each of these *met* the requirement that the OFM filing date must be 10 working days before the start date.
- In all cases, contract files contained evidence of the OFM filing and subsequent review/approval. This evidence was a printed copy of the e-mail messages confirming filing confirmation and approval and in some cases a printed copy of the electronic filing itself.
- In two cases, OFM made recommendations to change the contract after they were filed. Employment Security made required changes or provided clarifications in both cases.

Filing of Contract Amendments

- Only three of the seven personal service contracts were amended. These contracts were *exempt* from OFM filing requirements because each was an extension of the contract deadline for two months or less and neither involved changes to contract cost or scope of work.

Advertising a Sole Source Personal Service Contract

- Both sole source contracts were **exempt** from the guideline requiring advertisement because their contract amounts were under \$20,000.

Sole Source Filing Justification

- Both sole source contracts **met** the guideline stating that contracts subject to filing include a comprehensive explanation of the circumstances surrounding the sole source award decision. Justifications were written and addressed all required criteria.

Competitive Filing Justification

- The Guidelines require that a fully documented justification be prepared and filed with OFM. All five competitive contracts included a justification, but in two cases the written justification did not address all of the required topics or the answer was determined to be incomplete. For example, one justification did not explain what it had done to determine that “no public resources were available within required time limits.”
- Three contracts **met** the guideline, and two **partially met** the guideline.

Contractor Selection

Contracting with Current or Former State Employees

- Five of the seven personal service contracts **met or partially met** the guideline. Four contracts resulted from second-tier procurements (Requests for Resumes from a pre-qualified list of firms). Firms were required to declare current or former state employment of individuals as part of the written response to the RFR. In the fifth instance, the contract’s related RFP requested that proposals include a declaration of the use of current or former state employees. Procurement files did not contain copies of the responses and we were unable to verify that the requirement was met.
- Two of the seven personal service contracts **did not meet** the guideline. We found no evidence of screening in either contract.
- Only one of eight client service contracts **met** the guideline. Three contracts with Workforce Development Councils were determined to be exempt from the screening requirement. The remaining four contract files **did not meet** the guideline because they had no written evidence that any kind of screening for current or former state employment occurred.

Competitive Procurement – Client Service

Competitive procurement for client service contracts is encouraged but not required under RCW 39.29. Four contracts in this sample resulted from a formal competition. No informal competitions were included in this sample.

Preparation for the Solicitation Process

- The four client service contracts **met** the guideline that they follow formalized solicitation procedures. Three contracts resulted from specific procedures to solicit proposals from recognized Workforce Development Councils per the requirements of

the Workforce Investment Act. Another contract followed formal procedures that included newspaper and e-mail advertisement reaching a statewide audience.

- Four client service contracts with sole source procurements did not use formal solicitation procedures, which are not required, but are still encouraged for client service contracts.

Solicitation Documents Available

- All four client service competitive contracts **met** the recommended guidelines for use of formal Requests for Proposals and appropriate advertising. Solicitations resulted in acceptable numbers of responses, and RFPs and resulting proposals were kept in procurement files.

Non-Competitive and Sole Source Procurement - Client service

Documentation of Basis for Award

- Two of the four sole source client service contracts **partially met** guidelines requiring documentation of the sole source award, but two **were exempt** from the guideline. Program managers could explain the reasons for these latter two awards and the reasons appeared to be justified, but these explanations were not documented in the files.

Contractor Qualifications – Client Services

Screening Methodology and Documentation

- We found no evidence of a formal screening methodology, but two of the eight client service procurements **partially met** these guidelines. One contractor was selected in a formal RFP process that considered technical qualifications and the ability to deliver desired services. Two contractors selected from sole source procurements were evaluated on the basis of the program manager's personal knowledge of qualifications and prior performance.
- Five contracts were determined to be **exempt**. Three Workforce Investment Act contracts mandate the use of Workforce Development Councils to receive the grant. Procurement managers can only evaluate technical approaches and not organizational qualifications. Similarly, the Workforce Enhancements RFP process required ESD to contract with the specific partners identified in the proposal. Proposals were evaluated on the basis of relevance to program goals and not on the basis of the chosen partners.
- In only one case did a contract **meet** guidelines by including formal documentation of an evaluation in the file.

Contractor Qualifications to Receive the Contract

- All contracts **met** this requirement. Each client service contract included a requirement in its Certifications and Assurances section that the contractor must certify that they are qualified and eligible to receive the contract under applicable laws and regulations. In the case of specialized federal funding, such as WIA, additional assurances were included.

Financial Stability

- Guidelines suggest that prior to selection of a contractor the contract manager may want to give consideration to the contractor's financial stability. Three of the eight client service contracts **met** or **partially met** this suggested guideline. No formal review was completed. The contract manager relied on direct knowledge of the contractor's financial capabilities or the contractor's parent organization.
- Two contracts **did not meet** this suggested guideline. Program managers responsible for two Workforce Enhancement project contracts indicated that they do not perform a financial review. These contracts are made with contractor/partners that are identified by local ESD offices as part of a proposal process.
- Likewise, contracts with three Workforce Development Councils were not subject to any financial review. By law, Workforce Investment Act money may only be distributed to these legal entities.

Previous Contractual Performance – Client Services

- Five of the eight client service contract managers considered previous performance prior to selecting the contractor and therefore **partially met** the guideline. Reviews were informal, and relied on contract manager knowledge of the contractors. Reviews were not documented in the files.

Minimum/Necessary Qualifications

- Seven of the eight client service contracts identified one or two minimum qualifications to qualify for the contract and **met** guidelines.
- Four formal procurements included minimum qualifications or requirements in the procurement documents. Three sole source contracts included at least one minimum requirement as well (for example, contractor must be certified by the Social Security Administration.)
- One procurement did not impose any minimum qualification requirements and **did not meet** recommended guidelines. This was a sole source contract resulting from a Workforce Enhancement RFP, and so the only "qualifications" necessary was that the contractor was identified as a required partner in the RFP.

Formal Competition (RFPs and RFQs) – Personal Services

Advertisement

- One procurement **met** the guideline by advertising its RFP in a statewide daily newspaper, as required.
- The four remaining competitive procurements did not require advertising, since requests were distributed to firms or individuals on a pre-qualified list. These procurements are **exempt** from the advertising requirement. (Statewide advertisement was required in the creation of the master list.)

Formal Solicitation

- All competitive procurements **met** this guideline. Each issued a formal solicitation document. Three solicitations used Requests for Proposals, four used Request for Resumes (second-tier procurements) and one used a Request for Qualifications.

- The number of firms or individuals contacted ranged from 6 (for the RFP) to 72+ (for the second-tier procurements).
- Each solicitation followed a documented schedule, showing all dates.
- All five solicitations allowed at least the minimum time for response according to the guidelines.
- Only one procurement included a pre-proposal conference. This was scheduled one week after issuance of the RFP, and two weeks before the submission deadline. This met minimum time requirements.

Elements of an RFP

- The guidelines require that formal procurements issue a well thought out RFP or similar document that includes key elements. Five procurement documents **partially met** these guidelines. All documents were missing at least one required element. Most often, the missing element was “Definitions” and/or “State’s Role.” Remaining sections were well-written.

Proposal Preparation and Submission Instructions

- Guidelines specify that the procurement document include specific instructions on how to prepare the proposal. All documents **met** the guidelines.
- Only one formal RFP was included in this review, and it contained specific instructions in the three recommended categories: Technical Proposal, Management Proposal and Cost Proposal.
- Four second-tier documents (RFQ, RFR) contained sections for Mandatory Qualifications, Desirable Qualifications and Price. This was appropriate to the type of procurement.

Evaluation Criteria

- Guidelines recommend that detailed evaluation criteria consistent with the RFP, (RFQ or RFR) be included in the procurement document. All five of the procurements **met** this guideline.

Consultant Selection – Personal Services

Proposal Evaluation Document

- Four of the five competitive procurements **met** the guideline to use a proposal evaluation document or matrix that scores responses according to criteria specified in the RFP, RFQ, or RFR. The remaining procurement used a scoring process, but final results were not available for our inspection in the procurement file and so it **partially met** the guideline.

Selecting the Evaluation Team

- Guidelines suggest that a qualified evaluation panel be identified and that members sign Conflict of Interest and Confidentiality Statements. Only one procurement fully **met** these guidelines. Four procurements **partially met** the guidelines. Each used an evaluation team, but the team members were not identified by name. Even though the

Contracts Office makes available Conflict of Interest and Confidentiality Statement forms, no signed forms were found in these four files.

Communicating with Consultants

- Each procurement **met** guidelines by identifying an RFP coordinator, by name, in the procurement document.

Receipt and Opening of Proposals

- Guidelines require that all proposals be dated, time stamped, and initialed upon receipt. Copies of proposals should be retained in a secure location. Three of five competitive procurements **met** these guidelines. Two procurements **did not meet** the guidelines. In one, the winning proposal was missing the required date, time stamp and initial. (It appeared that this copy was added to the file at a later date.) In another, the proposals were not retained in the procurement files.

Responsiveness of Proposals

- Guidelines recommend that a checklist or other list of criteria be used to evaluate a proposal in terms of its conformance to the preparation and submission requirements of an RFP, RFQ, or RFR and that reasons for identification of a proposal as non-responsive be documented. Four competitive procurements **met or partially met** these guidelines. One **did not meet** guidelines because there was no evidence of a checklist in the contract files.

Reference Checks

- Four of five procurements **met** the guideline that references be checked in accordance with the RFP. However, documentation of reference checks was incomplete in most cases.

Documenting the Selection

- Only one competitive procurement fully **met** requirements to document the contractor selection and to retain all required documents in a file that could be reviewed by a third party. The remaining procurements **partially met** guidelines. For these, files were missing one or more components including the lists of firms contacted, evaluator scoring sheets, scoring results, original copies of proposals, Conflict of Interest Statements, and notices to successful/unsuccessful bidders.

Contract Provisions

Scope of Work

- All fifteen personal service and client service contracts included well-written, detailed Scopes of Work that **met** the guidelines.

Compensation and Payment – Personal Services

- Each of the seven personal service contracts clearly defined the compensation method, maximum contract cost, allowable expenses, payment and invoicing procedures as required by the guidelines. All **met** the guidelines.

Amending Contracts – Client Services

- Three client service contracts were amended. One *met* the guideline of having amendments that clearly identify the reason/purpose for the amendment and were completed before the end of the original contract. Two contracts *did not meet* the guidelines. They were well documented and fully justified, but were not fully executed (signed) until after the original contract had expired. In one case, first contract amendment ended on 6/30/2005 and a second contract amendment, to be effective on 7/1/2005, was signed on 7/28/2005. Invoices indicate that the contractor continued working and was paid through the month of July.

Performance Measures and Outcomes

- Although use of performance measures is not a required contract element, the Guidelines do suggest that they be used where possible. Seven of the eight client services contracts and three of seven personal services contracts included measures to assess the performance of the contractor or program team.
- Five of these used outcome-oriented measures (client employment, employment retention, for example) and tied performance to payment.
- Two contracts identified output measures (number of assessments completed, number of classes held) and tied outputs to payment.
- Three contracts with Workforce Development Councils included measures that Councils and partners were collectively responsible to meet, although payment was not tied to performance.

Performance Based Contracts

- Performance-based contracting is encouraged for both personal service and client service contracts, but is not required. We considered a contract to be “performance-based” if it described what the contractor was expected to accomplish (and not how to do the work) and tied payment directly to outcomes or deliverables. Using this definition, eleven contracts (four client service and seven personal service) were fully or partially performance-based.
- Three client service contracts provided excellent examples of the performance-based model. These contracts identified desired client outcomes (class completion, employment, and employment retention at 30 and 90 days, for example) and paid contractors for achievement of each of the outcomes.
- Three personal service contracts defined a particular desired output or deliverable and paid for the completion of that deliverable.
- Four information technology services contracts specified project tasks and deliverables that were required of the contract project manager or analyst, but payment was for contractor time and materials.
- Of the eleven contracts that were considered to be fully or partially performance-based, seven tied performance to the compensation method. If performance was not achieved, the contractor was not paid. As noted above, four information technology services contracts compensated the contractor based on time and materials.

Fiscal Reporting

- All seven personal service contracts **met** the guidelines for fiscal reporting, including defining reporting requirements and dates (where appropriate) and providing for access to contractor staff, records and place of business. In most cases, routine fiscal reporting was not required by the contract, but Contract Terms and Conditions Section B described broad access to contractor records and facilities.
- All eight of the client service contracts also **met** the guidelines. In addition to access to records provided in the Terms and Conditions, three Workforce Investment Act-funded contracts describe specific fiscal reporting requirements.

Payment Documentation

- Ten of the fifteen contracts in our sample **met** guidelines requiring complete documentation and support for each payment and financial record retention and access. In addition, all of the client service contract payments were made in accordance with the terms of the contract, as required.
- Five of the fifteen contracts **partially met** guidelines. The majority of invoices for these five contracts were supported by documentation for services provided and had required evidence of payment approval. However, each of the five contracts had invoices for which we were unable to obtain copies with initials or approvals, were missing supporting information such as a contractor timesheet, or were signed but not dated, for example.
- Client service contracts are subject to an additional requirement. Contracts must specify that payment will not be made for the same client more than once. Employment Security has created standard language in the Terms and Conditions Section Q that states: “The Contractor shall not bill the agency for costs if the Contractor is being paid by another funding source for those same costs.” Contractors operating under performance-based contracts that make payments based on client achievement of certain milestones may indeed request payment for a client more than once, if clients reach more than one milestone. We believe that the language used by ESD meets the spirit, if not the letter, of the requirement and is more appropriate to their circumstances.

Contract Monitoring

Risk Assessment Approach to Contract Management

- Five of the fifteen contracts **partially met** the guideline to complete a risk assessment that evaluates the exposure to harm or loss that could arise from an activity associated with the contract. In these cases, risk assessment was done informally and was not documented.
- Ten contracts **did not meet** the guideline, either because risk assessment was not performed or there was no evidence to suggest it had been performed.
- ESD does not use a risk assessment form of its own. The OFM form is made available to Contract managers via the ESD intranet site.
- Fourteen of fifteen contracts did not make any monitoring and reporting additions to account for risk factors or findings. One contract manager did take into account some of the factors in his ‘informal’ assessment as he developed the contract.

Monitoring Plan

- All contracts **met or partially met** the guidelines for contract monitoring.
- Guidelines suggest that a monitoring plan be developed that is consistent with the factors found in the risk assessment. Ten of the fifteen contracts we reviewed did not perform a risk assessment, and so could not technically meet this requirement.
- However, each contract we reviewed had a monitoring plan that was commensurate with the importance or sensitivity of the services provided. Federal contracts were especially well-monitored.
- In all but one case, the contract manager was determined to have the expertise and background to monitor the contractor. For many of the contracts, the contract manager was also the lead technical manager or the program manager. One contract manager has left the State, and we did not have enough information to determine her qualifications.

Monitoring Activities

- Guidelines require that the contract manager collect information about contractor operations and review the appropriateness of contractor performance and payments. All eight client service contractors complied with the reporting requirements of their respective contracts and so **met** guidelines. Seven of the eight had performance measures that were monitored. These contracts made use of the following monitoring activities or methods:
 - Periodic contractor reporting: 8
 - Agency review of audit reports: 3
 - Invoice reviews: 8
 - On-site reviews and observations: 6
 - Other periodic contact with contractor: 6
 - Client surveys: 0
- Client service contract monitoring for federal contracts was exceptionally thorough. Contract managers received detailed written progress reports, made on-site reviews and had regular contact with contractors. Three of the seven personal service contractors complied with contract reporting requirement, and **met** guidelines. In four remaining cases, we were unable to verify with the contract managers that specific contract requirements for periodic status reports were met.
- Three personal service contracts monitored performance measures.

Reviewing Invoices for Payment

- In thirteen out of fifteen contracts, the contract files had complete evidence that billings were in accordance with the terms of the contract and that they were within the contract amount. This **met** the guidelines.
- Two contracts **partially met** guidelines. In one case, overall billings were within the total contract amount, but one deliverable was paid \$65 in excess of the contractual amount. This invoice also contained a line-item for “set up” costs, which were not allowable in the contract. In a second case, one invoice was missing a supporting timesheet.

Recommendations

The following recommendations directly respond to the observations in each audit area and guideline. In many instances, the recommendations involve developing procedures and checklists to provide assurance that the procedures are being followed.

Pre-Contract Planning and Preparation

1. Review ESD training records to ensure that all employees who execute and manage personal services contracts have received the appropriate OFM or ESD training, and that all employees who were trained by ESD have been reported to OFM. ESD has received special dispensation to be able to provide required contract training to its own employees. ESD must report training to OFM and OFM must record training in order for the training requirement to be met.

Department Response: Disagree. The training records have been reported to OFM. The two people that were identified as not completing the training had completed the training. The records were apparently lost during a transition time in the Contracts Office due to a RIF. We have reconciled our records with OFM and will ensure they match in the future.

2. Clearly identify the status of a federal contract (Sub-recipient or Vendor) in the contract document or on the Contract Clearance Sheet. Contract Terms and Conditions currently include the federal audit language that is required for sub-recipient status, but there is no recorded statement that allows a reviewer to easily determine whether the contract is for a sub-recipient or a vendor without assessing the contract against federal definitions. Without this designation, the agency runs the risk that auditors, program managers, and more importantly contractors do not have a clear understanding of the requirements of the contract.

Department Response: Agree. We will add a check box on our contracts clearance sheet (EMS 690) to document sub-recipient vs. vendor and clearly communicate the requirements for the program manager. We will make this available April – May 2006.

OFM Filing Requirements

3. Encourage contract managers to fully respond to all sections in the competitive filing justification. We found two examples where the justification did not respond to required sections or responded in an incomplete way. Guidelines require that a fully documented justification be prepared and filed with OFM.

Department Response: Somewhat disagree. The Contracts Office helps prepare the justification with the Program Manager and files the justification with the contract in the PSCD. We will ensure that we print out this justification from the PSCD and place it in the contract file to document the justification in all future contracts.

Contractor Selection

4. Require documentation in all personal service or client service contract files of activities performed to screen for current or former state employees and the results of that

screening. If necessary, develop screening guidelines to support contract managers in this effort. All contract managers should take positive action to screen for current and former State employees. Any activities performed to screen for State employees should be described in the procurement or contract documentation. Even if a screening produces no results, that fact should be documented in the contract files.

Department Response: Somewhat agree. We have an existing section on our clearance sheet asking the program manager to list any of the contractor's staff that are or have been state employees in the last two years. If they do not list any, we assume there are no state employees within the last two years. We can improve on this by creating a check box on the form asking them to check yes or no so we know they considered it, and if yes then ensure they list the name and termination date of the employee. Will complete by April-May 2006.

Non-Competitive and Sole Source Procurement - Client Services

5. Require that client service contract managers document the basis for award of sole source contracts. One way to assist managers in meeting this requirement might be to make the sole source justification form that is currently used for personal services contracts available to client service contract managers.

Department Response: Agree. We did not believe we were required to document the justification for sole source of a client services contract. We already have the tools in place for personal services and can easily update our "clearance sheet" to document the justification for sole source for client services as well as for personal services. Will update documents April – May 2006.

Contractor Qualifications – Client Services

6. Design a simple methodology for screening and documenting contractor qualifications, financial stability and previous performance or experience with the State in cases where a formal procurement does not provide this information. ESD should consider developing criteria in a checklist form or creating a simple template that could be used to evaluate and document these elements. We believe that it is important to review contractors for financial stability even if the contract manager has no choice in contractor selection (as was the case for the two Workforce Enhancements contracts with local ESD or WorkSource partners.) The contract manager can mitigate some of his risk if the manager is aware of any financial issues going into the contracting process.

Department Response: Agree. We are preparing a Risk Assessment Checklist which will include contractor qualifications, financial stability, and previous performance. We plan to have this available for use in April 2006.

Consultant Selection – Personal Services

7. Require that all personal service competitive procurements evaluate each proposal for conformance to the submission requirements of the RFP, RFR, or RFQ and document the results of the evaluation. This could be accomplished by creating a checklist or simple evaluation matrix for each procurement that is based on the specific requirements of that procurement.

Department Response: Disagree. We already have several evaluations tools and spread sheets for our program managers to use, and they do use them. We will discuss and develop a simple checklist to help our program managers determine what documentation they need to keep and ensure a copy is received and maintained in the contracts file in the contracts office.

8. Develop methods to ensure that complete and appropriate documentation of each competitive procurement is maintained in the procurement files. Files should include (but not be limited to) copy of the procurement document, any procurement correspondence, number/lists of firms contacted, evaluator scoring sheets, scoring results/matrices, original proposals received (with date stamp, time stamp and initials, or email date and time information), references checked (who, by whom, date), evaluation team members, Conflict of Interest Statements for each team member, and notices to successful/unsuccessful bidders. Each file should contain all elements required by the OFM Guidelines, and any other elements deemed to be important by the Contracts Office.

Department Response: Agree. Since we are decentralized we have asked the program managers to keep this information in their files. We may consider developing a checklist of what documentation we need to maintain and have them forward that information to the contracts office to ensure we have the documentation needed in the contract file. We could accomplish this by April – May 2006.

Contract Provisions

9. Develop procedures to ensure that contract amendments are not executed (signed) after the expiration of the original contract or previous contract amendment.

Department Response: Disagree with the need to develop a procedure, but agree it is a problem we are working on it. We have procedures (Policy 0023), and information on our web page under frequently asked questions that help to address this issue. In addition we kick out reminders every 90, 60, and 30 days, which we forward to the program manager and their boss, advising them that their contract are expiring and they need to take action if they wish to extend. We also continue to stress this issue in our training and consulting. The issue was much larger years ago and is improving considerably each year. With the recent reorganization we have several new program managers coming in and the issue has re-surfaced. We will keep our tickler system of reminding and consulting them as best we can.

10. Develop procedures to ensure that copies of all invoices and supporting documentation related to each contract are retained in the contract files.

Department Response: We will discuss this with our accounts payable department and program managers to come up with a method to ensure we have the appropriate invoices and approvals supporting each contract. Expect to put something in place April – June 2006.

Contract Monitoring

11. Identify and implement ways to make risk assessment a generally-accepted contracting practice at ESD. ESD contract managers are trained in the use of risk assessment, and OFM risk assessment tools and guidelines are available via the ESD intranet site, but formal risk assessment does not yet appear to be part of the contracting process. The ESD Contracts Office is currently developing a simplified assessment form that it plans to test in the near future.

Department Response: Agree. We will develop and put in place an assessment checklist in April 2006 and run a pilot to see if this area improves. We will also include this as part of our contracts training and consulting and post it on our web page.

IV. WASHINGTON STATE PATROL

Introduction

The Washington State Patrol's (WSP) primary function is to provide public safety services. WSP delivers its service through seven major bureaus: Field Operations, Fire Protection, Forensic Laboratory Services, Investigative Services, Management Services, Technical Services, and the Office of the Chief. All seven bureaus combine to administer the activities over 2000 commissioned and non-commissioned personnel. The WSP budget is \$404 million.

- The Office of the Chief manages the statewide operations of the agency and directly oversees the services of Department Psychologist, Labor Relations and Legal Office, and Government and Media Relations.
- Field Operations operates the Commercial Vehicle Division in addition to being responsible for traffic law enforcement, collision investigation, and motorist assists on 17,524 miles of state and interstate highways.
- Fire Protection provides services to fire districts, government agencies, members of the media, and the general public.
- Forensic Laboratory Services provides a wide range of forensic science expertise to city, county, and state law enforcement officers, assisting agencies at crime scenes, preparing evidence for trial, and providing expert testimony.
- Investigative Services consists of five divisions that provide various public services, including vessel and terminal safety; narcotics investigation and dismantling of clandestine labs; fatality, criminal, and missing children investigations; computer forensics; organized crime intelligence; and public records and records retention.
- Management Services oversees Budget and Fiscal Services, Human Resource Division, Risk Management Division, Strategic Planning and Performance and the Training Division.
- Technical Services provide support services and technical systems that Washington State Patrol troopers and all other criminal justice officials use thousands of times every day in protecting the citizens of Washington State.

The organization for administering and managing the WSP personal service contracts has remained fairly consistent. One individual serves as contract administrator and procurement coordinator, which involved the following:

- Developing the contracts between the project manager and the Office of the Attorney General,
- Serving as RFQQ coordinator,
- Ensuring contract coordination between the project manager, budget staff, accounting staff and any other individuals who would be affected by the contract, and
- Acting as contract signer, and monitoring contracts as needed.

Individual project managers handle the day-to-day contract monitoring including the approval of invoices and submitting invoices to accounts payable staff. Accounts payable staff serve as a second level check for contract payment documents.

Fourteen personal service contracts were reviewed of which nine were competitive and five were sole source. One contract was not reviewed because it was cancelled. There were no client service contracts.

Personal Service Contracts

- Smith, Gary L. (Criminal Intelligence Analyst Services)
- Chamness, Michael R. (Criminal Intelligence Analyst Services)
- Security and Investigations Inc (Criminal Intelligence Analyst Services)
- Sweeney, Mike (Criminal Intelligence Analyst Services)
- R Systems Inc. (Criminal History Application Encryption Project)
- Washington State Association of Prosecuting Attorneys (Legal Subjects Instruction)
- Pacific Coast Forensic Science Institute (Forensic Science Instruction)
- Sanders, Robert J. Criminal History Application Message Switch Upgrade)
- Wicklander-Zulawski & Associates (Investigative Techniques Instruction)
- Dennis A. Joiner & Associates (Promotional Examination Administration)
- Solutions II Inc. (Server Environment Configuration)
- JusticeTrax (Criminal History & Crime Laboratory Applications Interface Development)
- Northwest Envirometrics (Hazardous Materials Incidents Instruction)
- Milestone Technology (Quality Assurance for Criminal History Application Project)

WSP contract staff, especially Jeff Hugdahl, was timely, responsive, and helpful in fulfilling all requests and inquiries. The project managers were helpful and well prepared to answer questions regarding the contracts they managed.

Summary of Issues

Audit results generally showed WSP Personal Service Contracts had a high level of compliance with OFM's Contracting Guidelines. Areas of strength included the following:

- Contracts were adequately funded based on verified budget projections.
- Sole source justification was complete and well documented.
- Documentation for all non-responsive proposals and reasons for rejection were well kept.
- All areas under contract provision including performance measures, compliance with reporting requirements, and invoice reviews met the required guidelines.
- Other areas with high level of compliance were documented scope of work, compensation records, fiscal reporting and payment documentation.

The audit revealed some opportunities for improvement, especially in areas that were partially compliant with the guidelines. These areas include the following:

- Specific contract language should be included that prohibits commencement of work or payment for work until 10 working days following the OFM filing date.
- Although contracts were posted on list-services and the Internet, some were not advertised in an approved news source.

- The WSP did not contact the Office of Minority and Women's Business Enterprises to provide opportunities to increase OMWBE participation on state contracts.
- The minimum number of firms solicited in the competitive process should be six.
- Evaluators did not score proposals as originally identified in the RFQQ.
- While competitive contracting practices followed most of the guidelines, there is a need for more consistent documentation in the procurement files.

Areas that were out of compliance provide WSP with opportunities for improving WSP's contracting procedures with relatively minor improvements. These areas include the following:

- Not all staff who execute or manage contracts received the OFM contracts training.
- Task orders for a contract were categorized as amendments but were not filed with OFM.
- Washington State UBI numbers were not consistently recorded, either on the contract or on the Contract Clearance Sheet.
- Consistent date stamping and initialing of each hard copy proposal immediately upon receipt was not done.
- In the instance where only one proposal was received, no evaluation or scoring document was filed.
- No formal risk assessments were performed to evaluate the exposure to harm or loss that could arise from an activity.

Detailed Audit Results

Detailed information on the results of the WSP contract audit are provided by the contracting categories used in the Guidelines. The specific details and additional information in the audit guide for WSP can be found in Appendix C. Based on our review of the contracts, the audit revealed the following.

Training on Personal/Client Service Contracts

- Nine contracts involving six managers ***did not meet*** the guideline requiring contract training for those who execute or manage contracts.

Pre-Contract Planning

Funding Availability

- All contracts ***met*** the guidelines for available funding. No contract was exempt from OFM filing requirements.

OFM Filing Requirements

Filing Periods

- Twelve contracts out of fourteen ***partially met*** the contract guideline for filing the initial contract with OFM. The contracts were filed in a timely manner, but they did not include language stating that the contract start dates were subject to a ten-day

waiting period to allow for OFM review. The other two personal service contracts included the appropriate language.

OFM Recommendations of Insurance Requirements

- Two contracts out of fourteen (both were Sole Source) had OFM recommendations highlighting that the contractors should be required to purchase general liability/auto liability and employer's liability insurance. While changes to the contract were **not required**, the OFM Risk Management Division recommends that agencies include insurance requirements as applicable.

Filing of Contract Amendments

- Two contracts out of fourteen **did not meet** the contract guideline for filing amendments. The contracts categorized task orders as amendments. A distinction between task orders and amendments should be made in order to avoid conflicting terminology.
- Four contracts out of six **met** guidelines for filing amendments.

Advertising a Sole Source Personal Service Contract

- Three contracts out of five were **exempt** from advertising because the amount of the total contract was under \$20,000.
- Two contracts **met** the guidelines for advertising sole source contracts for at least one day in a regional newspaper.

Sole Source Filing Justification

- All five contracts **met** guidelines for documenting the sole source justification.

Advertising Competitive Contracts

- Of the nine competitive contracts, four **partially met** the contract guideline. Although the contracts were posted on list-services and the Internet, they were not advertised in an approved news source.

Contract Amendments Cumulatively Exceeding 50 Percent of the Original Contract Value and/or That Substantially Change the Scope of Work of the Original Contract

- Four contracts out of six were **not required** to file with OFM because their amendments did not cumulatively exceed 50% of the original contract value and/or substantially change the scope of work.
- Two contracts out of six **did not meet** the guideline of filing contract amendments that exceed 50 percent of the original contract value with OFM. The contract amendments were really task orders that cumulatively totaled more than 50 percent of the original contract value. The budget and scope for the task orders, however, were already part of the original contract, but the WSP process still created an "amendment document" for task. If the task orders are part of an original contract and budget, WSP should not classify them as contract amendments just to authorize the contractor to proceed.

Consultant Selection

Advertising Requirements (Competitive Procurement)

- Four contracts out of nine **partially met** the contract guideline for contract advertising. The guideline requires that competitive procurements be solicited in approved news sources.

Issue of Formal Solicitation Document

- One contract out of nine solicited a total of four firms and **partially met** the contract guideline. The guideline requires a minimum of six firms to be contacted for IT personal services. The contract manager had been informed by the Washington State Department of Information Services that only three firms were required to be solicited for an IT contract.

Evaluation Team

- The contract guideline suggests the use of a panel of qualified individuals to evaluate contract proposals. The guideline also recommends that evaluators sign a declaratory statement certifying their lack of potential conflict of interest and assurance of confidentiality. Seven competitive contracts **did not meet** the guideline because no statements were signed.

Receipt and Opening of Proposals

- One contract out of nine **did not meet** the guideline of date stamping and initialing each hard copy proposal immediately upon receipt.

Responsiveness of Proposals

- Five contracts out of five **met** the guideline for documenting all non-responsive proposals and reasons for rejection.

Evaluation and Scoring

- Three contracts out of nine **did not meet** the guideline for evaluating and scoring. For these contracts, only one proposal was submitted and no evaluation or scoring document was filed. Four contracts out of nine were scored, but references were not scored as identified in the RFQQ and **partially met** this guideline.

Contract Provisions

Scope of Work, Compensation, Fiscal Reporting and Payment Documentation

- Fourteen contracts **met** guidelines for scope of work, compensation and payment, fiscal reporting, and payment documentation.

Contract Monitoring

Risk Assessment Approach to Contract Management

- All fourteen contracts **did not meet** the guideline because no formal risk assessment was performed to evaluate the exposure to harm or loss that could arise from an

activity. Risk Assessments were conducted on an informal basis and were not documented.

Monitoring Plan

- All fourteen contracts **did not meet** this guideline because they did not have a formal risk assessment, and consequently did not create a monitoring plan that was consistent with any risks identified. All managers possessed the expertise and background, aside from the required OFM training, to manage and monitor their contracts.

Monitoring Activities

- All contracts **met** the guideline for collecting information about the contractor operations and reporting requirements.

Reviewing Invoices for Payment

- All contracts **met** the guideline regarding reviewing invoices for payment.

Recommendations

The following recommendations directly respond to the observations in each audit area and guideline. In many instances, the recommendations involve developing procedures and checklists to provide assurance that the procedures are being followed.

Contract Management

1. Require all employees who execute and manage personal services contracts to receive the appropriate OFM contract training.

Department Response: Agree with recommendation, although all agency staff who currently execute personal services contracts have been trained. WSP executive management has been scheduled for training on April 3, 2006. A list of agency staff who manage personal services contracts has been developed and they will be directed to attend training. We anticipate training will be completed for these staff no later than June 30, 2006.

OFM Filing Requirements

2. Include language in contracts and contract amendments subject to filing with OFM stating that contract start date was subject to a ten-day waiting period to allow for OFM review/approval. WSP should revise its standard contract templates to make sure this contract provision and other required language is included where appropriate.
3. WSP should consider requiring sole source contractors to purchase general liability/auto liability and employer's liability insurance before executing the contract. The OFM Risk Management Division recommends that agencies include insurance requirements as applicable.
4. WSP should follow the OFM guidelines for filing contract amendments. WSP should make a distinction between task order approvals and amendments to avoid conflicting terminology.

5. Require competitive contracts except for General Administration master contracts to be published in an approved news source in addition to any other sources solicited. A list of approved news sources can be found in the *OFM Washington State Guide to Personal Service Contracting*.

Department Response: Agree with recommendations. All requirements will be implemented immediately.

Consultant Selection

6. Require that a minimum of six firms are solicited for each competitive personal service contract selection process.
7. WSP should require that all hard copy proposals be date stamped and initialed immediately upon receipt.
8. Require all submitted proposals to be scored and evaluated according to the evaluation criteria developed in the RFQQ. This includes scoring and evaluating contracts that have only received one proposal and contractors that have provided a service to WSP in the past.

Department Response: Agree with recommendations. All requirements will be implemented immediately.

Contract Monitoring

9. Develop procedures to identify when a formal risk assessment is required to evaluate the exposure to harm or loss that could arise from an activity associated with the contracts. OFM has provided examples of risk assessment forms and processes in the Guidelines document.
10. Develop procedures to identify when a formal monitoring plan is required and the general form of such monitoring plan. OFM has provided examples of monitoring forms and processes in the Guidelines document.

Department Response: Agree with recommendations. Procedures for assessing risk will be developed and implemented no later than June 30, 2006.

V. FOLLOW-UP ON PREVIOUS AUDIT RECOMMENDATIONS

As part of the audit's scope of work, OFM initiated a follow-up on the recommendations of the previous risk-based audit completed in June 2004. For each previously audited department, OFM wanted to review each department's actions for implementing specific 2004 recommendations. The previously audited departments were:

- Employment Security Department,
- Department of Social and Health Services,
- Department of Corrections,
- Department of Community, Trade, and Economic Development, and
- Department of Health.

To determine the above departments' progress on implementing the audit recommendations, we met with each department's contract staff to discuss what actions have been taken since the previous audit report. Our follow-up for ESD is more detailed because the audit included a review of 15 personal and client service contracts. The four other follow-up departments were not included in the audit, and as a result, actual implementation was not reviewed. Depending on the department and the recommendations selected by OFM, we found that the departments, for the most part, have taken steps to implement the recommendations. The following sections are organized by department and show the previous audit's recommendation, the department's response, and the current status of the department's response.

EMPLOYMENT SECURITY DEPARTMENT

As part of our audit of the 15 ESD Personal Service and client service contracts, our review included how ESD responded to specific recommendations made in the June 2004 audit report. The 2003-2004 findings were based on a review of only two ESD contracts. Discussion on the current status of Recommendations #1 and #4, which were selected by OFM, follow the descriptions of the recommendation and the agency response.

Recommendation #1: ESD has not developed a risk assessment tool linked to a monitoring plan for either personal service or client service contracting.

Agency Response: In our Contracts Training class we have a section devoted to Risk Assessment developed in collaboration with OFM where we define what risk assessment is, why do a risk assessment, what it consists of, etc. We also identify areas to look at before you contract, during the creation of the contract, and during the contract (i.e., management and monitoring). In addition we devote a section to Management and Monitoring where we define the difference, and identify why, what and who should be monitoring. We include in the training materials the Client Service Guide developed by OFM and point out the section on monitoring and show them the risk assessment tool in the appendix for their use.

The Client Service contract selected for testing, was monitored by the Workforce Investment Act (WIA) compliance monitors, a unit responsible for system and program annual reviews for all WIA contracts and grants. The WIA contract manager, Jess Wilson, also conducted

implementation reviews to ensure that contract activity is in accordance with the terms of the contract. The implementation review is also standard practices for all WIA contracts.

Status: The current audit concluded that ESD was not yet in full compliance with the OFM risk assessment guidelines. We recommend that ESD continue to identify and implement ways to make risk assessment a generally accepted contracting practice at ESD. During our audit we found the following:

- As discussed in Chapter III, ESD's risk assessment is done informally in some cases, but neither the process nor results are documented. Risk assessment is not a routine part of contract preparation.
- Those program/contract managers that perform informal risk assessment do consider some of the risk categories listed in OFM guidelines.
- While risk assessment does not play a formal role in the development of a monitoring plan, we found that contract monitoring activities are comprehensive and appear to be appropriate to each contract.
- The OFM contracts training course includes a section on Risk Assessment, and OFM Risk Assessment tools are available on the ESD web site. Contract managers we interviewed did not use these tools.
- The Contracts Office is in the process of designing a simplified risk assessment tool based on OFM Guidelines that could be used to increase the use of risk assessment in the agency.

Recommendation #4: ESD should take steps to ensure that a fully executed contract is in place before allowing work to commence and should not pay for work performed before a fully-executed contract is in place.

Agency Response: The agency has made a concerted effort to ensure contracts are in place prior to the start of work. This was more of an issue in prior years than it is today. We believe that as a result of our training and counsel, the Contracts Office has seen large improvements in this area. We talk about it in two areas in our current training classes. First, during the discussion on the elements of an enforceable contract where we talk about the signatures of the responsible parties and second, where we share an audit checklist asking if the work started before the contract was signed or was work performed after the contract ended. We will continue to ensure adequate coverage of this issue is included in our training curriculum.

Status: In spite of efforts in this area, ESD has not yet succeeded in making sure that contracts are fully executed before the start date of the contract. There is a risk that contractors may begin work before contracts are signed. ESD may want to consider including language in future contracts that states that contracts are not effective and work may not begin until contracts are fully executed (signed). During our audit we found the following:

- OFM Guidelines state that contract managers should not instruct the contractor to begin work before a contract is fully executed. Guidelines also state that a contract is considered to be executed when all authorized parties have affixed their signature.

- In our sample, we found three client services contracts that ESD signed after the effective date of the contract:
 - 05-338-CS was effective on 1/1/2005 and signed on 1/9/2005
 - 05-129-CS was effective on 8/26/2004 and signed on 9/4/2004
 - 05-339-CS was effective on 1/1/2005 and signed on 1/3/2005
- We also found three personal services contracts that ESD signed after the effective date of the contract:
 - 05-520-PS was effective on 8/3/2005 and signed on 8/16/2005
 - 05-335-PS was effective on 1/03/2005 and signed on 1/05/2005
 - 05-309-PS was effective on 12/6/2004 and signed on 12/13/2004
- We attempted to verify whether or not work was actually performed before the contract was fully executed. One contractor supplied timesheets with an invoice, and did not bill for any time before the contract execution date. One Workforce Development Council billed for expenses beginning from the contract start date. The remaining contracts were deliverable-based, and it was difficult to tell if work began before the contract execution date.
- In no case did ESD authorize or make a payment to the contractor before the fully executed contract was in place.
- ESD has been working with contract managers to ensure that contracts are signed in a timely manner.

DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Recommendation #1: Despite having a Central Contract Services group, the DSHS contracting process is decentralized in many respects. We found there is a lack of consistency in many files as a result. Some divisions within DSHS consider themselves so unique as to require their own set of forms and documentation for contracting. Our experience with DSHS and other agencies with diverse programs is that this is usually not true. We recommend that the Department establish standard documentation for use by all divisions. In those cases where a distinct difference is clearly evident, that division could be allowed to modify the Department's form rather than develop its own from scratch.

Agency Response: DSHS agrees with this recommendation. While the auditors have not made clear what documentation is lacking consistency and whether there is a deleterious effect for not having standardized documentation, DSHS nevertheless agrees with the proposition that standardizing documentation for use by all administrations would facilitate monitoring and audit efforts. Central Contract Services (CCS), in collaboration with agency programs, has already standardized approximately 100 contract formats, which are used consistently. CCS will continue to work with program contracting staff to identify further opportunities for standardizing and streamlining documentation and develop a plan by December 31, 2004, to improve performance in this area.

Status: DSHS did not develop a plan by December 31, 2004, but started the process in 2005. Documentation standards were posted on the CCS website by July 2005.

Recommendation #3: In most contracts, the *Contractor Intake Form* only addressed if the contractor was a state employee. Only a few contracts included an additional form to address the status of “former” state employees. We recommend DSHS include an additional form or revise the *Contractor Intake Form* to include the status of “former” state employees.

Agency Response: DSHS agrees with this recommendation. The ethics law, RCW 42.52.080 expressly prohibits former state officers and employees from accepting employment or receiving compensation from an employer doing business with the state, under certain conditions, for up to two years. CCS will revise the contractor intake form in accordance with this recommendation by July 1, 2004.

Status: The revisions were included as part of the documentation standards for Recommendation #1, and as a result, the July 1, 2004 date was not met.

Recommendation #4: The Economic Services Administration Division under DSHS has developed an excellent Risk Assessment tool which links to a monitoring plan based on the level of risk. In our review, we found risk assessments using this tool were performed on a number of contracts. However, several contracts failed to document the level of risk assessed to the monitoring plan. DSHS should address this deficiency and strive to ensure risk assessments are completed for all contracts and that all risk assessments are linked to a monitoring plan.

Agency Response: DSHS agrees with this recommendation. Economic Services Administration’s risk assessment instrument is recognized as a best practice and is available to download from the Agency Contracts Database (ACD). CCS will post the risk assessment to its website by July 1, 2004, and encourage all programs to use it.

Status: The Economic Services Administration’s risk assessment was posted on the DSHS website in 2004.

Recommendation #7: Monitoring during the course of the contract should be done in response to the level of risk assessed. We believe monitoring was being performed for most contracts, but not documented in the files we reviewed or in ACD system. DSHS should continue to ensure all contracts are monitored according to the level of risk assessed and documented appropriately.

Agency Response: DSHS agrees with this recommendation. Administrative policy pertaining to contract risk assessment and monitoring is scheduled for sunset review in September 2004. CCS will propose stronger uniform standards for risk assessment, monitoring, and documentation in the revision. The revised policy will be implemented by December 31, 2004.

Status: The revised policy was implemented in March 2005.

Recommendation #8: DSHS had not incorporated any contract selection screening criteria or methods in the client service contracts reviewed. A selection screening form or checklist should be utilized by contracting personnel and made part of the contracting process.

Agency Response: DSHS agrees with this recommendation. CCS will collaborate with agency program contracting staff to develop screening criteria reflective of the OFM mandatory guidelines and complete a plan for implementation by December 31, 2004.

Status: The work on this recommendation was done as part of the implementation process for Recommendations #1 and #3, and was performed during the first six months of 2005. By July 2005, DSHS had developed program specific screening tools.

Recommendation #11: There were instances of DSHS paying for services performed before a contract was in place. DSHS should take steps to ensure that a fully executed contract is in place before allowing work to commence and should not pay for work performed before a fully executed contract is in place.

Agency Response: DSHS agrees with this recommendation. Agency programs are aware of the necessity of having a fully executed contract in place prior to the contractor starting work, or the agency paying for work. The incidence of after-the-fact contract executions is negligible and, beginning July 1, 2004, CCS will begin reporting such instances to the Chief Administrative Officer, as well as the responsible administration, for appropriate corrective action.

Status: Quarterly reports are sent to the Chief Administrative Officer, and suggested revisions to the reporting process have also been made.

Recommendation #14: No evidence of background checks by the Division of Developmental Disabilities on the contractor, the contractor's employees, and volunteers were documented in the files. DSHS should review its policies to include this documentation in the contract files.

Agency Response: DSHS agrees with this recommendation. The Division of Developmental Disabilities completes background checks on all sole proprietors and maintains the results in contract files. Contracted agencies such as the Kitsap Area Agency on Aging and Coastal Community Action, however, may send their background checks through DDD, but most are expected to obtain background checks and maintain files, accordingly. DDD relies on the Department of Health licensors to verify its contractors' background checks or rely on the contractors' internal monitoring practices to ensure compliance. CCS will propose in the revision to administrative policy on contract risk assessment and monitoring, that administrations require all contractors conducting their own background checks to submit copies of the appropriate clearances for administration records. The new policy will be implemented by December 31, 2004.

Status: Revisions to DSHS Administrative Policy No. 13.11 now require staff to enter all criminal history background checks into the Agency Contracts Database. The policy was effective March 1, 2005. Administrative Policy No. 13.11 will be reviewed in March 2007.

Recommendation #16: DSHS has invested substantial time and money developing the Agency Contracts Database (ACD), which is currently underutilized. All of the contracts we reviewed in the ACD had most of the general information filled out on “Contract Screen 1 & 2” and “Contract Status.” Out of the twenty contracts that we reviewed the only other documentation in ACD was insurance information on two contracts and monitoring information on one contract. Several of the contract files we reviewed had duplicate work done by different people. ACD has the potential to aid in the pre-contract planning, contractor selection and screening, risk assessment and monitoring, and post contract follow up. Some basic information is required to be entered into ACD to generate new contracts. All other information is entered voluntarily. ACD should not be voluntary, as is now the case. All divisions should be required to use the system. This could eliminate duplicate work and the contracts and contractors would be easier to monitor and evaluate.

Agency Response: CCS developed the extensive functionality of ACD with considerable input from agency program contracting staff and offer training at least four times a year on its use. Additionally, CCS provides assistance to programs on an ad hoc basis when user/system problems arise. CCS is working with a Delphi (ACD’s development language) programmer undertaking in an examination and reengineering of ACD to increase usability/functionality for agency staff.

Requirements for completion of fields in ACD are broken down into two categories: (1) fields required to save information on a particular screen; and (2) fields required by specific business rules for approval of particular contract codes. In the first case, the intake screen (Contractor information) requires demographic information: Contractor Name, Address, Phone numbers, Tax ID number, and Contact Information.

To save a record, the Contract Information screen requires: Contract Type (Client, Personal Service, or Interlocal), Start Date, and Contract Code. The design concept on this screen was to allow for the capture the basic contract information in case development was a collaborative team effort. Many of the demographic data elements are automatically filled in from the Intake record.

For the second case, the Contract Information screen requires, for the most part, End Date, Service Description & Contract Reason, Subrecipient Status, Payment Method, and Document location for approval of the contract. In addition, if there is a stated maximum consideration, the funding breakdown of federal and/or state funds must match that amount. Finally, CCS can code a contract code so that a Facility Address is provided on the Addresses screen, and that an OFM filing date is required.

Additional information that could be captured, but is up to individual agency programs to decide on its necessity, includes:

- Intake Checks – Information regarding background checks and training
- Intake Officers – Names and titles of corporate officers
- Intake Comments – Comments in text format, along with the date of entry, and the name and phone number of the staff person who entered the comment

- Contracts Addresses – Facility, Billing and Mailing addresses can be recorded for each contract
- Contracts Performance Counties – WA Counties in which the contractor is providing services can be recorded
- Contracts Insurance – Insurance information including type and dollar amount required, and certificate number can be recorded, for as many types of insurance per contract as needed
- Contracts Licenses – Professional or other relevant licenses can be record, including License Number & Type, Issue & Expiration Dates
- Contracts Payment System – The payment system type (SSPS, MMIS, etc) and number can be recorded, with as many records created as needed
- Contracts Financial – This screen can capture detailed account coding and financial information, with as many records as needed
- Contracts CFDA Numbers – As many Catalog of Federal Domestic Assistance numbers can records as necessary
- Contracts Manage Documents – Other documents can be saved to ACD server, related to the contract, such as an Excel Spreadsheet Exhibit
- Contracts Multiple Contractors – Additional parties to the contract can be recorded (this is very rare)
- Contracts Comments – Comments in text format, along with the date of entry, and the name and phone number of the staff person who entered the comment
- Contracts Monitoring – Many details regarding contract monitoring can be recording, with as many monitoring records as needed
- Contracts Audit – Audit information specific to a contract can be recorded

CCS will propose in the revision of administrative policy that use of the Contracts Monitoring screen become mandatory. The revised policy will be implemented by December 31, 2004. The plan, with timelines, for ACD reengineering, will be in place by December 31, 2004.

Status: As noted for Recommendation #14, DSHS Administrative Policy No. 13.11 on monitoring contractor performance was revised and became effective on March 1, 2005. Designated staff members are now required to enter into the ACD the following:

- Performance monitoring activities,
- Criminal history background checks,
- Insurance coverage,
- Federal sub-recipients, and
- Other monitoring activities.

DEPARTMENT OF CORRECTIONS

Recommendation #2: DOC should consider specifying in the General Terms and Conditions a clause to prohibit duplicate payments or billings to prevent payment for the same or similar services.

Agency Response: The DOC Contract Office agrees with this statement. The DOC will develop and implement such language into its contracts. We anticipate completion of this by January 2005, to provide enough time for attorney general review and approval.

Status: DOC has changed its standard contract to include a statement that the department shall not pay the contractor if the contractor has charged or will charge the state of Washington or any other party under any other contract or agreements for the same services or expenses.

Recommendation #5: There was one instance of DOC paying for services performed before a contract was in place. DOC should take steps to ensure that a fully executed contract is in place before allowing work to commence and should not pay for work performed before a fully executed contract is in place when it is operationally possible.

Agency Response: The DOC Contract Office agrees with this statement. DOC staff that have responsibility for contracting have attended mandatory contracts training which should reduce the likelihood of this in the future. In addition, the Contracts Office has begun sending monthly contract expiration notices, which include all contracts expiring within 4 months of sending. The effect of this has been to prompt the Programs to submit their contract requests well ahead of time.

Status: Besides the training, DOC is currently reviewing its contract approval and routing processes to identify opportunities to reduce the length of time needed to finalize contracts. According to DOC, there are, however, instances for health services when the service is vital, and a contract may be approved after the service is provided. The DOC's health services staff and auditor are providing training to help prevent such instances and to make DOC staff aware of approved contractors.

DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Recommendation #2: CTED should require program departments to "date stamp" documents when they receive them. Several documents we examined did not contain date stamps. As a result it was not possible to determine if the contractor submitted them on time. We suggest that the Department require date stamping documents when they are received.

Agency Response: We agree with this recommendation. We will begin implementing the recommendation immediately.

Status: Currently, CTED has a contracts staff member that checks for date stamps before they become part of the department's contracts data base. CTED's Contract Excellence Work Group is drafting more specific policies and procedures that will guide program departments.

Recommendation #3: At least one CTED Division has developed a Risk Assessment Tool (which is available on the Department's intranet). That tool, however, does not lead to a contract monitoring plan. Only two contracts contained documentation that the Risk Assessment had been performed. We recommend CTED adopt a Risk Assessment Tool for use agency-wide, that the tool link to a monitoring plan and that it be a required part of contract file documentation.

Agency Response: We agree with this recommendation. Although the OFM Guide to Client Services Contracting includes the CTED example of the Risk Assessment Document as a potential model for other agencies, it is not in universal use with CTED.

The agency formed the Contract Excellence Work Group (CEWG) in November 2002. The purpose of the workgroup has been to improve contracting performance and accountability and to reduce CTED's risk through effective contract management. The CEWG is currently co-chaired by two division assistant directors. The members of the CEWG are representative of all CTED's Divisions. A number of initiatives have resulted from this work. The CEWG is currently developing a new contract risk assessment tool. The risk assessment tool is in draft form and will be considered for use in agency wide implementation later this year. The risk assessment tool will link to a monitoring plan and become part of the contract file documentation.

In addition, CTED is hiring both a Contracts Excellence Project Manager and an Internal Auditor in the near future. The Contracts Excellence Project Manager will be involved in the development of the tool. We anticipate that the auditor will conduct CTED agency- wide risk assessments that will include contracting risks as well.

Status: CTED's Contract Excellence Work Group has issued a draft contract monitoring policy that states that contracting staff are responsible for developing a contract risk assessment methodology and performance monitoring tools and for conducting a pre contract risk assessment that includes at least identified risk factors, objective rating of the factors, and a description of the methods and frequency of monitoring activities. Specific procedures to implement these policies are being developed and are due by March 31, 2006. The policy defines risk assessment as the following:

“The process of evaluating exposure to harm or loss that could arise from some activity associated with a contract for services. This process is active throughout the entire life of the contract, beginning with the program's pre-contracting process, continues through contractor selection, evaluating the contractor's performance, and post contract factors such as the contractor's record retention and/or data destruction.”

Recommendation #5: CTED has not incorporated a standard contractor selection screening criteria form in the client service contracts reviewed. A contractor selection screening form or checklist should be utilized by contracting personnel and made part of the contracting process.

Agency Response: We agree with this recommendation. CEWG is currently addressing best contracting practices. We will bring this recommendation to the CEWG and the CTED Management for further discussion and action.

Status: As noted for Recommendation #3, the CEWG is working on developing policies and procedures as well as templates and forms to be used for personal and clients services contracts. The planned due date is March 31, 2006.

Recommendation #14: There is often little or no competition available for many types of client services. This is understandable since the services are likely to be very specialized and the sources of funding for the services are limited to a few or even one source, usually the State. When there is a narrow opportunity for securing a contract, the effect is to discourage vendors from making the investment needed to enter a market. As a result, contracts with many client service providers are renewed for long periods of time. Since pre-contract activities, particularly a risk assessment linked to a monitoring plan, are required to be performed only for new vendors or contracts, they are not formally performed or documented. The same is true of post-contract evaluation. We recommend CTED adopt a policy of requiring pre- and post-contract procedures at regular intervals in these situations.

Agency Response: We agree with this recommendation. We will bring this recommendation to the CEWG and the CTED Management for further discussion and action.

Status: As noted previously, the CEWG is planning to complete its work by March 31, 2006. The risk assessment definition includes pre and post contract monitoring.

DEPARTMENT OF HEALTH

Recommendation #1: DOH has developed a risk assessment tool which they refer to as the Technical Assistance Monitoring Evaluation Tool. The tool properly addresses risks of contracting and culminates in a monitoring plan. This tool was not utilized in any of contracts that we reviewed. Contracting designees should ensure this form is completed and included in the contract or program file.

Agency Response: The agency agrees with the observation. The current Technical Assistance Monitoring Evaluation (TAME) tool was initially developed specifically for federal subrecipient activities. It would not be appropriate to utilize TAME for all contracts. A workgroup with executive-level sponsorship is being formed to review the agency's contracting policies and procedures. The workgroup will consider the requirements of RCW 39.29, OFM guidance and best practices for contract management. In addition, the Agency is looking at evaluation tools that have a broader range of application.

Status: DOH has formed a work group to focus on contracting processes and procedures. To date the work group has not completed their work. DOH anticipates that the work group will identify best practices and risk assessment tools for use in its contracting processes. DOH's contract policy was revised effective January 27, 2006, and contract training manuals have also been revised.

Recommendation #2: We did not find evidence of contractor selection screening criteria in the client service contracts that we reviewed. A selection screening form or checklist should be utilized by contracting personnel and made part of the contracting process.

Agency Response: The agency agrees with the observation. The work group being formed will look at the legal requirements for contractor selection screening criteria. In addition, other tools being evaluated incorporate documentation of selection criteria.

Status: As noted for Recommendation #1, DOH has formed a work group, and it is still working to complete its work.

Recommendation #6: Monitoring, to some degree, appeared to have been performed in most contracts reviewed, but was not documented in all files or included in the files made available for review. Instances were found where contractor reports were not submitted within the timeframe required by the contract. DOH should emphasize monitoring be performed as needed to ensure reporting and other contractual requirements are met.

Agency Response: The agency agrees with the observation. The work group being formed by the Agency will be addressing risk assessment and monitoring issues. Monitoring, and documentation of monitoring, will be a priority for the workgroup. The Agency will be reviewing our policies and procedures and recommending changes to comply with RCW 39.29 and current OFM guidance.

Status: The internal contracting policy for the DOH requires compliance with RCW 39.29 as well as the Guide to Personal Service Contracting and the Guide to Client Service Contracting. The Guides include the legal requirements for monitoring. DOH's contracts training class emphasizes monitoring of contractors performance during the life of the contract. DOH also refers people to the Subrecipient Monitoring class taught by an in-house expert on subrecipient monitoring.

Recommendation #10: There is often little or no competition available for many types of client services. This is understandable since the services are likely to be very specialized and the sources of funding for the services are limited to a few or even one source, usually the State. When there is a narrow opportunity for securing a contract, the effect is to discourage vendors from making the investment needed to enter a market. As a result, contracts with many client service providers are renewed for long periods of time. Since pre-contract activities, particularly a risk assessment linked to a monitoring plan, are required to be performed only for new vendors or contracts, they are not formally performed or documented. The same is true of post-contract evaluation. We recommend DOH adopt a policy of requiring pre- and post- contract procedures at regular intervals in these situations.

Agency Response: The agency agrees with the observation. The workgroup being formed to review contract risk assessment and monitoring will look at continuing evaluation of the risks associated with continuing use of a contractor. As the auditors correctly observed, in most situations the nature of the funding and the services to be provided, in conjunction with the need to provide services in specific locations limits the opportunity for other providers.

Status: According to DOH, the previously mentioned work group was tasked with reviewing and refining a risk assessment tool and contract monitoring aids and with developing a contract close out process. The work group has not completed its work as of this date. DOH stated that it will continue to work towards refining its existing tools and developing new processes for contract monitoring and close-out.